

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARVIN GERBER, et al.,

Plaintiffs,

v.

Case No. 19-13726
Honorable Victoria A. Roberts

HENRY HERSKOVITZ, et al.,

Defendants.

_____ /

**ORDER STRIKING PLAINTIFFS' MOTION
FOR PARTIAL SUMMARY JUDGMENT [ECF No. 23]**

Plaintiffs filed this case in December 2019 against the City of Ann Arbor and several individuals. They filed a 23-count amended complaint on January 10, 2020.

On February 29, 2020, Plaintiffs filed a motion for partial summary judgment against the City of Ann Arbor. Plaintiffs do not seek summary judgment on any of their 23 causes of action. Instead, they seek summary judgment on *factual allegations* in paragraphs 30, 36-38, 72, 74, and 76 of the amended complaint.

“A party may move for summary judgment, identifying each ***claim*** or defense – or the part of each claim or defense – on which summary judgment is sought. The court shall grant summary judgment if the movant

shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a) (emphasis added). Judgment as a matter of law is granted as to a cause of action – or “claim” – not a factual allegation.

Moreover, Plaintiffs’ motion for partial summary judgment is premature. Questions of fact exist.

Unless the Court grants leave, no summary judgment motion may be filed until after the close of discovery.

Plaintiffs’ motion for partial summary judgment [ECF No. 23] is **STRICKEN.**

IT IS ORDERED.

s/ Victoria A.Roberts
Victoria A. Roberts
United States District Judge

Dated: February 29, 2020